

CHARTER REVIEW COMMITTEE
MINUTES
March 29, 2021

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5:30 p.m.

CALL TO ORDER Chairperson Singer called the meeting to order at 5:30 p.m.

PRESENT Chairperson David Singer, Vice Chairperson Otis Wheeler, Councilor Christine Forgey, Erin Donnally Drake, John Lunt and Allen Woods.

ABSENT Councilor Shelia Gilmour.

ALSO PRESENT Mayor Roxann Wedegartner; Acting Chief Assessor Kimberly Mew; City Council President Penny Ricketts and members of the public.

CHAIR STATEMENT: This meeting is being recorded by the Charter Review Committee. If any other persons present were doing the same they must notify the chairperson at this time.

MOTION: On a motion by Committee member Donnally, second by Councilor Wheeler, it was,
MOVED: TO APPROVE THE CHARTER REVIEW COMMITTEE MINUTES DATED MARCH 15, 2021.

DISCUSSION: Chairperson Singer explained that the discussion of Chapter 7 needed clarity to distinguish a referendum and initiative petition and presented the following amendments:

Chairperson Singer opened discussion on Charter Section 7-6: Petitions to Council or School Committee; 7-7: Citizen Initiative Measures; 7-8: Citizen Referendum Procedures.

- Chairperson Singer began by explaining that a petition under Section 7-6 gets the attention of the City Council and School Committee; however, both entities can decide whether they want to vote on the petition or not. Section 7-7 allows the public to ~~present~~ **initiate** a proposed ~~ordinance~~ **measure** for the Council or School Committee to consider, which they must vote on. The question for discussion is again whether to have a supplemental **initiative** petition or not in Section 7-7. Chairperson Singer noted the State Law's language on how to get an initiative petition on the ballot is to have it go to the Council or School Committee for vote, and if voted down then there must be a referendum petition filed immediately to get the question on the ballot. A Greenfield Citizen has suggested having a direct route for initiative petition; first sending to the Council or School Committee, then if voted down, the petition goes directly to the ballot. Question was raised if the supplemental **initiative** petition was a necessary process.
- The Committee has discussed this previously, and now on second review, the suggestion was made to leave the language in the Charter "as is" using a supplemental **initiative** petition with some slight language change to the timeframes and percentage of signatures required.
- There was discussion on supplemental or not supplemental **initiative** petition. Committee member Woods explained that it would be a simpler procedure for a citizen to present their petition to the City Council and/or the School Committee and if they reject it, the issue would be forwarded to the ballot for the voters to decide. That option should have a higher threshold of signatures for the initial Petition and omit the supplemental **initiative** petition in its entirety. Chairperson Singer countered that if the initial petition contained a considerable number of signatures to be placed on the ballot, citizens would not have an opportunity with a smaller number of required signatures on an **initiative** petition to give the Council or School Committee a first chance to agree and possibly pass the issue at that level of community interest. Councilor Gilmour believed that having a smaller number of signatures just to have the **initiative** petition placed on the Council or School

Committee's agenda(s); however, there should be a higher number of signatures collected in order to place the issue on the ballot. Committee member Woods noted that he would suggest 5% of the voters in order to submit an initiative **petition** to the City Council and/or School Committee, with an additional 2 1/2% for the ~~referendum~~ **initiative petition** to be placed on the ballot.

- Committee member Donnelly believed that the supplemental **initiative** petition should remain in the Charter. Chairperson Singer reiterated that he did not have issues with any of the language in the current Section 7; however, the percentage numbers could be amended. The Committee agreed that the same percentage of signatures should be used for both the supplemental **initiative** and referendum petitions. The Committee may continue this discussion at the next scheduled meeting.

It was by roll call, 6 yes, 0 no,

VOTED: TO APPROVE THE MINUTES OF MARCH 15, 2021, AS AMENDED.

Chairperson Singer opened discussion on Charter Section 6-14: Board of Assessors:

- Chairperson Singer stated that last week the Mayor had received the legal opinion from the City Attorney stating whether members of the board of Assessors' can be appointed and/or elected. Chairperson Singer asked if anything stated in the City Attorney's opinion presented any concerns or provided suggestions for the committee members. Councilor Forgey voiced concern with the City Attorney's opinion that an appointed Chief Assessor cannot serve for an "indefinite term" as currently stated in the Charter. Councilor Forgey stated that if there was a definite term for the appointment (usual term is three years), it could result in "revolving Chief Assessors" that may be appointed by a newly elected Mayor. Chairperson Singer explained that the Charter can be modified to add a "top tier Assessor" who can then serve a definite term. It would not work for Greenfield due to the fact, as Assessor Mew explained; as Chief Assessor, she has the day to day responsibilities of an assistant assessor. Mayor Wedegartner noted that the word "appointed" was also used in place of the word "hired" in employment contracts with department heads for City positions.
- Committee member Lunt believed that this would have some conflict with Charter Chapter 3-3: Appointments by the Mayor; (a) "Except as may otherwise be required by the civil service law, and in this Charter, appointments made by the Mayor shall be for indefinite terms." The question becomes, does the Assessor fall under the civil service law as an exception or is the Chief Assessor a department head. Councilor Forgey was looking for solid language to determine that the principal assessor be a professional employee that serves the City and whose job security and position could not be threatened through Charter language suggesting the Mayor could act arbitrarily based on politics.
- Councilor Wheeler had concerns that the legal opinion referred to elected officials and not appointed ones. MGL Chapter 43B §20 Clause (d): "for the term of office to be served by any local elected officer; provided, however, that no term of office of a local elected officer shall be for more than five years, and the members of multiple member bodies shall serve for terms which, as nearly as possible, expire in different years." He believed the terms of offices should be specifically defined. Mayor Wedegartner explained that most contracts between the City and department heads are for a term of three years. Assessor Mew noted that the Chief Assessor and the Treasurer Collector are the only department heads that are members of the union. Chairperson Singer believed that by using the words "Board of Assessors", and placing the appointed part in that sentence; unless Councilor Wheeler is correct in the interpretation of MGL Chapter 43B §20 Clause (d), each of the assessors have to serve staggered terms of fours. By naming the Chief Assessor as a member of the Board of Assessors, the City would be stuck with that as a requirement. However, it was said by the City Attorney that due to that issue, he wondered about re-organizing the assessor's office. This could be an issue the Committee may not want to consider this late in the Charter review. Chairperson Singer requested the Mayor to confirm whether the "definite term" is mandatory as far as the City is concerned, in order to negotiate with the Union whether the Chief Assessor would be appointed whenever a Mayor is elected. Concerns have arisen regarding how the Chief Assessor has access to the internal workings of the office, but elected assessors were not permitted access to the office's

files. The Committee could resume this discussion at the next meeting once more clarification is provided to the concerns that were raised.

- Chairperson Singer inquired with Mayor Wedegartner and Councilor Forgey if they had any objections to the City Attorney's opinion in Charter Section 6-3: Department of Municipal Finance to amend the following:

SECTION 6-3: DEPARTMENT OF MUNICIPAL FINANCE

1. *Establishment, Scope* - There shall be a Department of Municipal Finance responsible for the performance of all of the fiscal and financial activities of the Town. ~~The Director of Municipal Finance shall assume all of the duties and responsibilities related to municipal finance activities which prior to the adoption of the Home Rule Charter were performed by or under the authority of the Town Accountant, the Town Treasurer, the Town Collector, and the Board of Assessors;~~ and it may have such additional powers, duties and responsibilities with respect to municipal finance related functions and activities as the Town may from time to time provide, by ordinance. So much of the powers of a chief procurement officer which the Mayor does not personally exercise, shall be assigned to the Department of Municipal Finance. All activity by the Mayor acting as a Chief Procurement Officer shall be processed through the Department of Municipal Finance.
2. *Director of Municipal Finance* - The Department of Municipal Finance shall be under the direct control and supervision of a Director of Municipal Finance who shall be appointed by and who shall be responsible to the Mayor. The Mayor shall also appoint the person, or persons, performing the duties of Town Collector and Town Treasurer. The Director of Municipal Finance shall be a person especially fitted by education, experience and training to perform the duties of the office. **The Director of Municipal Finance shall be responsible for the supervision and coordination of all activities of the Department of Municipal Finance** in accordance with General Laws, Town bylaw, administrative code and rules and regulations. The Director of Municipal Finance shall serve, as the Mayor may from time to time specify, as the Town Treasurer, Town Collector, Treasurer-Collector or Town Accountant.

Both approved of and concurred with the proposed amendment.

Chairperson Singer opened discussion on a "standard" or "balancing test" he has written in the Draft Report to be provided to the Council to use in determining the percentages of votes and timeline for Charter Sections 7-7: Citizen Initiative Measures; and 7-8: Citizen Referendum Procedures.

- Chairperson Singer noted the Charter created a representative form of government on the one hand; however, the citizens should have reserved to them strong input in the actions of their representatives.
- Committee Member Woods believed that Chairperson Singer's proposed recommendations and balancing test frames the question and does not provide opinion, because opinion is what is necessary for the Council to make that decision.
- Councilor Wheeler believed that 400 signatures required for referendum petition is too low a threshold.
- Committee Member Lunt noted that citizens do have a voice when they elect representatives and are entrusting those representatives to make the best informed decisions on the public's behalf. He believed that Chairperson Singer's proposed recommendations are correct; however, there is concern that if the number of signatures required for a referendum petition is too low then it could lead to an abuse of the system and hinder representative government. Lunt believes 1200 signatures on a referendum petition is a fair number for the current population of Greenfield.
- Committee Member Donnally agreed that 400 signatures on a referendum petition is too low a requirement. She noted that Cities surrounding Greenfield have a higher threshold and believe that 10% would be a fair requirement.
- Committee Member Woods clarified that most of the comments received on this issue addressed Charter Section 7-8; which overturns a Council or School Committee vote and places it on the

ballot. Charter Section 7-7 allows a Citizen to introduce a proposed measure for the City Council or School Committee to consider, and therefore does not follow similar procedures.

- Chairperson Forgey believed that there should be a higher threshold for collecting a number of signatures on a referendum petition of 20%.
- Chairperson Singer pointed out that elected government can act in bad faith; so at what point of contention over the Council's votes would Citizens be given the opportunity to submit a challenge to the Council's decisions.
- Committee Member Lunt pointed out that there needed to be recognition in regards to the difference between a Citizen's ability to have their voice heard by their elected officials and the Citizen's ability to challenge a vote because it doesn't go along with their views.
- Chairperson Singer noted that if the percentage of signatures required on a referendum petition were to be raised, the time frame in which those signatures need to be collected may need to be expanded.
- Chairperson Singer noted that the number of signatures registered voters should be from the last bi-annual Statewide Election to maintain consistency; and further clarified that it was based on the total number of registered voters in the City of Greenfield and not the number of registered voters who actually *voted* at the election.

Chairperson Singer opened discussion on further tasks to be completed before the Committee could move forward with writing a report to present to the full Council.

- Chairperson Singer noted that there were 4 issues that would need to be addressed: Section 3-8 Temporary Absence of the Mayor; Section 6-7 Planning and Development Department; Section 2-8 (b) & (c) in regards to the City Clerk; and Section 6-14 Board of Assessors proposed language from the City Attorney's opinion.
- Councilor Forgey suggested that the City Clerk could give the Committee an overview of what her daily duties and responsibilities were and how much of it involved what is done for the Mayor.
- Councilor Wheeler noted that if the Council had the power to appoint and remove a City Clerk they should also be involved with the Clerk's performance review. This issue continues to be a cloudy area. Chairperson Singer would look further into this issue.
- Councilor Forgey noted that the language the Mayor proposed for Section 3-8 in regards with using calendar days versus business days was adequate. She does have an issue with the Charter stating specifically that automatically there is an appointment of the Chief of Staff as acting Mayor; due to the fact that the position title does not currently exist in the Charter, and the current language provides more flexibility.
- Chairperson Singer stated that a specific person and/or position title should not be listed in the Charter as a temporary acting Mayor. He suggested that during the time a temporary acting Mayor is appointed their qualified employee *shall* assist the TAM and their duties of the office, including communicating with the City Council.

Chairperson Singer noted that he will be working on a draft 4 of the Charter review report. His would like to submit a final report to the full Council by the end of April.

Next meeting is scheduled for Monday, April 12, 2021, at 6:00 pm.

Committee member Woods noted in Charter Section 7-8 a final line was omitted from the appendix concerning what makes an eligible election; so he will submit to Chairperson Singer an edited version of the draft.

ADJOURNMENT: On a motion by Councilor Forgey, second by Committee Member Lunt, it was unanimously,

VOTED: TO ADJOURN THE MEETING AT 7:05 P.M.